

## REMARKS

Claims 1-20 are pending in the application and have been rejected.

Claims 2, 8-12 and 14-20 would be allowable if rewritten in order to overcome the 35 U.S.C. §112, second paragraph rejection to claim 1, and to include all of the limitations of the base claim and any intervening claims.

Claims 1-20 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner states that claim 1 recites the limitation "the spindle penetration" in line 7, which does not have antecedent basis.

It is respectfully submitted that claim 1 was correct in accordance with 35 U.S.C. §112, second paragraph as "the spindle" in line 7 has antecedent basis in line 3. However, in order to further clarify independent claim 1, the foot receiving device has been further defined as comprising "an opening in the component plate for penetration of the spindle past a lower end of the inner sleeve." The claimed plate has support in claims 6, 7, 8 and 15-20. Figure 1 shows spindle 11 extending through the opening in plate 2 and extending past a lower end of inner sleeve 8. Thus, no new matter has been added. Removal of the 35 U.S.C. §112, second paragraph rejection is requested.

Claims 1, 3-7 and 13 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,462,612 to Dreyer et al. The Examiner states that Dreyer et al. discloses a supporting device for semi-trailers with an outer sleeve (1), a spindle (4) for receiving a telescopic inner sleeve (2), and a foot receiving device for attaching a support foot (10) connected to the bottom of the inner sleeve. The Examiner also states that the Dreyer et al. foot receiving device includes a component that occludes the inner sleeve (11, 12 and 14) with an opening for the spindle, a bracing element (15 and part between) at its bottom end and located around an opening, and two opposing bearing points where 10 and 12 meet adapted to accommodate the support foot. The Examiner further states that the bracing element extends between the bearing points and includes ribs with a curved shape. The Examiner further states that the component has a plate or cover 11 and there is a section of the plate located outside of the bracing rib.

The Dreyer reference can neither teach nor anticipate the invention claimed in independent claim 1 of the present application. First, the Dreyer reference cannot teach or

suggest a spindle as claimed in independent claim 1. Item 4 cited by the Examiner as being a spindle in Dreyer is actually a tubular foot sleeve that is fitted into the lower opening of leg 2, see column 3, lines 2-3. As described in the present invention in at least page 5, last full paragraph through page 6, first paragraph, the spindle is designed to be connected to gearing which is preferably arranged in a top section of the supporting device in order to extend and retract inner sleeve 8 in relation to an outer sleeve in order to raise or lower the foot receiving device which is designed to support the semi-trailer during use. In column 2, lines 65-67 Dreyer merely mentions that "the supporting leg 2 may be extended and retracted by means of a crank mechanism not shown". Thus, Dreyer cannot teach Applicants' claimed spindle.

The Examiner also states that the Dreyer device includes components 11, 12 and 14 which occlude the inner sleeve. Component 11 of Dreyer is a support plate, component 12 a holding ring, and component 14 an elastic body, see column 3, first full paragraph of Dreyer. Neither of these components occlude the inner sleeve as claimed. Moreover, none of the components contain, as claimed in independent claim 1, an opening in the component plate for penetration of the spindle past a lower end of the inner sleeve, as claimed in independent claim 1 and shown in at least FIG. 1 of the application. Although ground plate 5 of Dreyer occludes the inner sleeve, the plate is connected to elastic body 14 through the shown linkage and has no opening in the plate for penetration of the spindle past the lower edge of the inner sleeve as claimed in independent claim 1.

Accordingly, only impermissible hindsight motivation can be utilized to reject the claims of the present invention. As stated in the Abstract, the Dreyer reference relates to a telescopic supporting device having a supporting leg 2 projecting from a guide tube 1, where the lower end of the supporting leg includes a detachably fastened articulated foot. The object of Dreyer is to create a supporting device, in which there exists the possibility of a larger stroke length with respect to the constructive length and of a larger swinging angle for the foot, both with reportedly similar means while still having a large load capacity and longevity, see column 1, lines 63-68. As the Dreyer reference is lacking noted claimed features of the invention, there can be no anticipation under 35 U.S.C. §102(b).

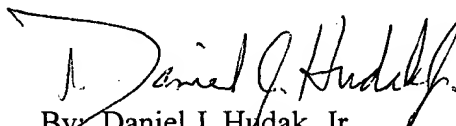
It is respectfully submitted that the Examiner is not presented a *prima facie* case of anticipation regarding the rejected claims of the present invention. According to the Federal Circuit, "anticipation requires a disclosure in a single prior art reference of each element of the

claim under consideration". W.L. Gore & Assocs. V. Garlock, Inc., 721F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). As noted above, anticipation cannot be found when the prior art is lacking or missing a specific feature or structure of the claimed invention. Accordingly, it is believed that the application is in condition for allowance and a notice of such is earnestly solicited.

Should the Examiner have any questions or concerns regarding this response a telephone call to the undersigned would be greatly appreciated in order to expedite allowance of the application.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Daniel J. Hudak, Jr.", with a large, stylized initial "D" that loops around the first part of the name.

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